IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REV. APPLICATION NO.85 OF 2006

Ramchhabil Jagaru Kushwah .. Applicant
Versus
State of Maharashtra .. Respondent

Mr.S.R.Chitnis, Senior Advocate with Ms.V.R.Raje for applicant
Mr.Rajesh More, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 8TH FEBRUARY, 2007.

P.C.

1. Rule. Respondent waives service. By consent heard forthwith.

2. This Revision application is directed against an order dated 15th November 2005 in Special Case No.5 of 2004 on the file of Special Judge, Thane.

3. By the order under challenge, the Special Judge (Prevention of Corruption Act) Thane has concluded that the sanction granted for prosecution of the applicant is legal and valid. The authority according sanction was competent to do so and it was granted after due application of mind. All objections to the order of sanction were thus turned down.

4. The applicant is the original accused. He is an employee (Junior Engineer), J.E. working in the erstwhile Maharashtra State Electricity Board (M.S.E.B.). He is prosecuted for having committed offences punishable under section 7, 13(1)(d) read with section 13(2) of P.C. Act.

5. After the charge in the special case was framed, the applicant accused moved an application praying that the issue of validity of sanction be decided before any further

proceedings are taken in the special case. After the application was taken on record, learned Special Judge directed prosecution to lead evidence before proceeding further with trial.

6. For appreciating contentions raised before me, a brief reference would be necessary to the prosecution's case. Complainant Ganesh and his partner Mangesh of Thane, obtained godown No.3 at Chitalsar, Thane, on rent since January, 2003 for their business from its owner Rasam. The owner had moved an application to Electricity Board at Wagle Estate office, Thane, on 30th December, 2002 for obtaining electricity connection. It was allowed. He was directed to pay Rs.45,320/- in the office. On 8th January, 2003 he paid the amount. He asked the complainant to take further steps by approaching the accused who was junior engineer in the M.S.E.B. Office at Vasant Vihar. Accordingly on 10th January and 14th January the complainant

with his partner Mangesh approached the accused and requested him to provide electricity connection. Despite assurance given, electricity was not provided till 15th January. Therefore, on 16th January they met him at his office and requested to provide electricity. At that time he demanded Rs.3,000/- from them for that purpose. Not willing to give the bribe, the complainant approached Anti Corruption Bureau, Thane Unit, on the same day and lodged a complaint. A trap was arranged by Inspector Joshi with the help of two panch witnesses Amol Jadhav and Avinash Gupte, both clerks working in Land Record office, Thane. The complainant provided six currency notes of Rs.500/- (Rs.3,000/-) for the purpose of trap. Anthracene powder was applied to the notes and its demonstration was given to show that the trap notes to whom the anthracene was applied, shines blue only under ultra violet light and not otherwise. They were kept in the left chest

pocket of the complainant with instructions to give the same to the accused only on demand and not touch them otherwise.

7. It is alleged that the complainant, panch Amol went to the M.S.E.B. Office at about 3.15 p.m. The raiding party and the other panch followed them and took positions outside the office. The accused was present. He again made demand for the bribe. The complainant gave the trap notes to him. He accepted the same and kept in right side drawer of the table. Thereafter, the complainant gave pre-determined signal to the raiding party. The raiding party reached there and he was caught. The trap notes were recovered from him. Traces of anthracene were seen on the trap notes and also on the right hand fingers, palm of the accused. On inspection under ultra violet light, traces of anthracene were also seen on both hand fingers of the complainant. A post trap panchnama was drawn and the trap notes were

seized. Inspector Joshi lodged a formal complaint against the accused on behalf of State at Wagle Estate Police Station. He made further investigation. After completion of investigation, the papers were sent for obtaining necessary sanction for prosecution of the accused, to the competent authority. Shri.Ashok Manekar, Joint Secretary (Technical) State Electricity Board, has accorded sanction as competent authority. Thereafter, a charge sheet came to be filed against the accused.

8. In all fairness, it should be stated that Mr.Chitnis, learned Senior Counsel appearing for the applicant did not challenge the impugned order insofar as it holds that the sanction order is passed after due application of mind. Thus, the legality and validity of the sanction order is challenged on the restricted ground that the authority competent to grant sanction was not the one who has granted the sanction. In other

words, the sanction granted by one Ashok Maneklal (Joint Secretary) (Technical) is not legal and valid, is the only submission.

9. Mr.Chitnis, learned Senior Counsel has contended that from a perusal of the application preferred by the accused so also the evidence of Ashok Manekar, it is apparent that he was at the relevant time working as Joint Secretary (Technical) in the M.S.E.B. He has admitted that the Assistant Engineer, Kolshet was not directly under his control. He was under the control of Chief Engineer, Bhandup Zone. To a suggestion that this authority has no personal knowledge about field work done by Junior Engineers and Asstt.Engineers, according to Mr.Chitnis, although the reply is in the negative, the fact remains that MSEB Service Regulations would demonstrate that there is a clear demarcation with regard to the powers and authority of officers working in zone, circles and divisions

and sub-divisions. The authority who granted sanction in this case has admitted that he is looking after administrative work and not technical work. The applicant is a field staff. The disciplinary authority in his case is Chief Engineer. In such circumstances, the sanction granted by the Joint Secretary (Technical) is wholly vitiated in law.

10. Mr.Chitnis has emphasised the wording of Section 19(1)(c) of P.C. Act. He submits that the requirement thereunder is clear. He submits that there is a difference between the appointing authority and competent authority. Reading of section 19(1)(c) would demonstrate that the competency therein is in the context of authority to remove from service. In such circumstances, Mr.Chitnis submits that the Jt.Secretary (Technical) of the M.S.E.B. was wholly incompetent. Mr.Chitnis has placed before me the Departmental Circulars. He has also placed

before me the Maharashtra State Electricity Board (Delegation of Power) Handbook. He has also placed before me MSEB Employees Service Regulations.

11. He submits that a combined reading of the relevant clauses and more particularly Schedule (c) at Item 3(2) of the Regulations denote that competent authority to impose punishment and appeals insofar as the employees in Pay Grade -II is the officer of the Rank of Superintendent Engineer or equivalent and above. He has, in this context, invited my attention to Regulation 91(2)(f). According to him, reading of the same would reveal that in respect of applicant who was working as an employee in the Pay Grade - II, an officer of the rank of Superintending Engineer and above was competent to remove the applicant.

12. His next submission is that by virtue of regulations and Chapter II of Employees Service

Regulation 1995, of the Maharashtra State Electricity Board, Appointing Authority and Competent Authority are separately defined. The appointing Authority falls under 9(2)(a), whereas Competent Authority falls under 9(7) of the definition clause in Chapter-II and under section 19 of the said Act it specifically refers to Authority Competent to remove and if that be so, even assuming that P.W.1 was Appointing Authority, he was not Competent Authority and therefore the sanction accorded by him is bad in law and unsustainable.

13. It was next contended that by virtue of Schedule-19 of the said Regulation, list of the heads of the Department have been noted; and by virtue of note-II, exercise of powers by Chief Engineers in Head Office and fields is confined to the area under their jurisdiction and in respect of employees working under them. Therefore, Chief Engineer being head of the

department was the Competent Authority to remove the Petitioner from the service.

14. It is contended by Mr.Chitnis that in any event, when person like the applicant is posted as Section Engineer and is doing a field job, then, the Chief Engineer, Bhandup zone Urban was the competent authority to remove him from service. Post of Jt.Secretary (Technical) does not fall within any of the posts in the hierarchy of the applicant. He has invited my attention to the admissions in deposition of Jt.Secy. and further contended that Schedule 19 of the Regulations lists the heads of department and by virtue of Note - II exercise of powers by Chief Engineers in Head Office and branches is confined to the area under the jurisdiction and in respect of employees working under them. Therefore, the Chief Engineer being Head of Department was the competent authority to remove the applicant from service.

15. He has also taken me through the punishments which are provided for in the regulations and has contended that for acts of mis-conduct under Regulation 92(2)(f) punishing is a different aspect, than the powers conferred by the Regulation to appoint enquiry officer. In other words, the question of competency to remove is something which cannot be assumed by anybody unless there is a specific delegation. A power to initiate any enquiry is capable of being delegated but the authority to remove from service being distinct from the same in the absence of delegation, it cannot be performed by anybody other the Authority stipulated under the Regulations. The Joint Secretary (Technical) in the absence of any delegated powers has usurped the jurisdiction and his act is, therefore, ex facie bad in law. He submits that the Correction Slip No.82 dated 30th July 1986, is no more operative, since the same has been deleted. In

such circumstances, the question of competency of the authority to remove the applicant is an aspect going to the root of the matter and in the absence of any authority on the part of the Jt.Secy.(Technical), his order ought to have been set aside straightaway.

16. Mr.Chitnis relied on the following decisions of Supreme Court:-

(a) A.I.R. 1984 S.C. 684

(b) A.I.R. 1962 S.C. 1573 (R.R.Chari Vs. Union of India)

(c) A.I.R. 1997 S.C. 3600

17. On the other hand, Mr.More learned A.P.P. has contended that the impugned order does not require any interference. He submits that in revisional jurisdiction, this Court cannot

re-appreciate and re-appraise the evidence. The evidence of the sanctioning authority has been recorded and in his oral evidence, he has referred to number of documents including Service Regulation and Circulars. His Authority flows from the same and once an interpretation placed upon them, is a possible view of the matter, then, this court should not interfere. This is not a case where the sanction can be said to be ab-anitio and ex-facie illegal and void. The Jt.Secy. (Technical) is also a High Powered Official of the Board. His duties and powers so also authority are well defined. It is not a case where somebody has usurped the power and taken upon himself the same. This is a case where there is a clear cut authority flowing from necessary and relevant documents and in such circumstances, there is no warrant for interfering with the impugned order.

18. Mr.More has invited my attention to the

affidavits placed on record. He submits that the first affidavit which was filed by the P.I. attached to A.C.B. Thane may not be of any assistance but the documents annexed thereto together with the affidavit of Jt.Secy. (Technical) Narayan Misal are clear.

19. He submits that the deponent has clarified the aspect in the following terms:-

> "4: I say that the present Applicant/Accused was holding the post of Junior Engineer which comes under Serial No.28 of List Posts/Employees classified as Pay Group II Posts under Twenty First Schedule attached to the MSEB Employees' Service Regulations. I further say that the appointing authority of the said Junior Engineer is Joint Secretary (Technical) and more particularly mentioned under Serial No.2(i) of Third

Schedule (Appointing Authorities) attached to the MSEB Employees' Service Regulations.

5: I say that in the present case, the Applicant/Accused was a Junior Engineer and as per Schedule XXI under Regulation 27 of Employees Service Regulation, a Junior Engineer is classified as Pay Group II Employee and hence the then Joint Secretary (Technical) was accorded sanction for prosecution. I further say that as per Schedule III under Regulation No.9(2)(A), Joint Secretary (Technical) is competent authority for appointment to post in Pay Group II Employee. I further say that Electricity Board under a correction slip No.82 dated 30.07.1986 has revised the existing delegation of powers under previous notification dated 18.02.1965

> and according to the said slip, the concerned Appointing Authority is empowered to grant sanction to prosecute board Employees when the request is received from Anti Corruption Bureau/Police."

20. Mr.More submits that the submissions of Mr.Chitnis are without any substance. He submits that sanction granted by appointing authority is not invalid. He submits that when it comes to public post and public service, the Courts have consistently derived assistance from Article 311 of the Constitution of India. It is well settled that Article 311 of the Constitution of India would over-ride the P.C. Act and in any event, the interpretation placed upon the provisions like Section 19 should be in consonance with and be guided by the same. He submits that for sanction, permission of appointing authority is sufficient and it is not necessary that

appointing authority must be competent to remove the applicant from service, after the departmental enquiry. In any event, this is not a matter where the sanction is granted by somebody who is a rank outsider and did not possess any power at all.

21. For all these reasons and on a fair and proper reading of the service regulations and circulars in question, the order of sanction does not require any interference as it cannot be faulted at all. The learned A.P.P., therefore, submits that the Revision Application be dismissed.

22. For appreciating these contentions, reference to Section 19 is necessary and it reads as under:-

> "19. Previous sanction necessary for prosecution:-

(1) No Court shall take cognisance of an offence punishable under sections 7, 10, 11, 13 and 15 alleged to have been committed by a public servant, except with the previous sanction;

(a) in the case of a person who is employed in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person who is employed in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that

Government;

(c) in the case of any other person, of the authority competent to remove him from his office;

(2) Where for any reason whatsoever any doubt arises as to whether the previous sanction as required under sub-section (1) should be given by the Central Government or the State Government or any other authority, such sanction shall be given by that Government or authority which would have been competent to remove the public servant from his office at the time when the offence was alleged to have been committed.

(3) Notwithstanding anything

contained in the Code of Criminal Procedure, 1973 (2 of 1974):-

> (a) no finding, sentence or order passed by a Special Judge shall be reversed or altered by a court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under sub-section (1) unless in the opinion of that Court, a failure of justice has in fact been occcasioned thereby;
>
> (b) no Court shall stay the proceedings under this Act on the ground of any error, omission or irregularity in the sanction granted by the authority, unless

it is satisfied that such error, omission or irregularity has resulted in a failure of justice;

(c) no Court shall stay the proceedings under this Act on any other ground and no court shall exercise the powers of revision in relation to any interlocutory order passed in any inquiry, trial, appeal or other proceedings.

(4) In determining under sub-section (3) whether the absence of, or any error, omission or irregularity in such sanction has occasioned or resulted in a failure of justice the Court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

EXPLANATION: For the purposes of this Section

(a) error includes competency of the authority to grant sanction;

(b) a sanction required for prosecution includes reference to any requirement that the prosecution shall be at the instance of a specified authority or with the sanction of a specified person or any requirement of a similar nature.

23. I had occasion to deal with objection to the legality and validity of the sanction on the ground of competency of Sanctioning Authority. In my order in Criminal Revision Application No.346 of 2006, I had made reference to a decision of the Supreme Court in the case of "The State by Police Inspector Vs. T.Venkatesh

Murthy", reported in A.I.R. 2004 S.C. 5117 and thereafter, observed thus:-

> "35. I have decided this matter on the touch stone of section 19 of the P.C. Act. Section 19 of the P.C. Act has further provisions and now it is beyond any controversy that the issue of sanction should not be put on such a pedestal as would make it impossible for the prosecution and the Court to prosecute a public servant. The object and purpose of grant of sanction and protection and immunity contemplated thereby does not mean that technical and trivial objections to the legality and validity of the same must be entertained. The sanction order cannot be said to be vitiated merely because, it is termed as "Irregular". In State by Police Inspector Vs. T. Venkatesh Murty,

reported in A.I.R. 2004 S.C. 5117, the Supreme Court observes thus:-lation No.5 reads as under:-

"9. Sub-section (4) postulates that in determining under sub-section (3) whether the absence of, or any error, omission or irregularity in the sanction has occasioned or resulted in a failure of justice the court shall have regard to the fact whether the objection could and should have been raised at any earlier stage in the proceedings.

10. Explanation appended to the Section is also of significance. It provides, that for the purpose of Section 19, error includes competency of the authority to grant sanction.

11. The expression "failure of

justice" is too pliable or facile an expression, which could be fitted in any situation of a case. The expression "failure of justice" would appear, sometimes, as an etymological chameleon (the simile is borrowed from Lord Siplock in Town Investments Ltd. Vs. Deptt. of Environment (1977) 1 ALL ER 813; 1978 AC 359). The Criminal court, particularly the superior court should make a close examination to ascertain whether there was really a failure of justice or it is only a camouflage. (See Shamnsaheb M. Multtani Vs. State of Karnataka (2001 (2) S.C.C. 577).

14. In the instant case neither the trial Court nor the High Court appear to have kept in view the requirements of sub-section (3) relating to question regarding "failure of justice". Merely

because there is any omission, error or irregularity in the matter of according sanction that does not affect the validity of the proceeding unless the Court records the satisfaction that such error, omission or irregularity has resulted in failure of justice. The same logic also applies to the appellate or revisional Court. The requirement of sub-section (4) about raising the issue, at the earliest stage has not been also considered. Unfortunately the High Court by a practically non-reasoned order, confirmed the order passed by the learned trial Judge. The orders are, therefore, indefensible. We set aside the said orders. It would be appropriate to require the trial court to record findings in terms of clause (b) of sub-section (3) and sub-section 4) of Section 19."

24. Further, in a decision reported in A.I.R. 1955 S.C. 70 (Mahesh Prasad Vs. State of U.P), the Supreme Court has observed that an objection to the validity of the sanction order on the ground of competency of Sanctioning Authority must also be looked at in cases like the one raised before me in the backdrop of Article 311 of Constitution of India. It may be true that the present case does not involve a person holding a post as contemplated by the said Article. Nevertheless, it is not disputed before me that the applicant is a public servant. The Act applies to him. In the P.C. Act, section 19 has been incorporated with specific purpose. I am not unmindful of the fact that in the present case, applicant's prosecution must be sanctioned by an Authority competent to remove him from his office. However, the question of competency has been decided even in cases of employees who are placed like the applicant on the touchstone that

the sanction order cannot be questioned merely because it is erroneous or irregular. Any error or irregularity in the sanction granted by the authority, unless it is satisfied that such an error, omission has resulted in failure of justice is not liable for being stayed by a Court of law. In the explanation, the Term "Error" has been explained in such a manner that it includes competency of the authority to grant sanction.

25. Mr.Chitnis would term the order as not irregular but illegal. However, that aspect has also been the subject matter of a decision rendered by the Supreme Court. Whenever, sanction is granted by a superior or higher authority, then, it has been upheld by applying the principle that the preliminary object of insistence on a valid sanction is in order to ensure that a superior authority of competent rank has applied its mind to the facts of the case and that the prosecution has been ordered in

a situation where such course of action was essential. Once the authority granting sanction is also the appointing authority, then what has been observed is that such a sanction cannot be discarded as the appointing authority inherently possesses the power of removal, more so, if he is of a superior rank. The acts of granting sanction by higher and superior authorities have been viewed differently and the sanction is not questioned or discarded, merely because an argument was raised that such authority was not competent to remove the public servant from his office. Once the appointing authority is not lower than the public servant or the public servant's prosecution has not been sanctioned by an authority lower than the appointing authority, then, the sanction order has been held not to be vitiated. A somewhat identical issue was considered by the Supreme Court in the case of State Bank of India Vs. S.Vijay Kumar reported in A.I.R. 1991 S.C. 79. I would have to

consider the rival contentions applying these settled principles.

26. The limited issue before me is whether it can be said that the Joint Secretary (Technical) had no authority to accord sanction for the prosecution of applicant.

27. It appears that the M.S.E.B. has a set up where employees are graded as per their pay scales. The facts which are not in dispute are that the applicant is a Grade II employee. It is the case before me that the applicant is a field employee and anybody who is part of administrative set up could not accord sanction for his prosecution. The service regulations are entitled "MSEB Employees Service Regulations." They have been published by the Board. A decision was taken to compile and print up-to-date service regulations and that is how the regulations have been framed under the powers

conferred vide Section 79(c) of Electricity (Supply) Act, 1948. The Regulations are applicable to the employees of the board so also those deputed to the Board. It is provided that Board's interpretation of these Regulations and its decision shall be final. Regulation No.5 reads as under : -

> "5. Save as provided below, no authority other than the Competent Authority prescribed under these Regulations shall exercise or delegate powers under these Regulations without general or specific orders from the Board.
>
> Provided that it shall be open to the authority higher than the Competent Authority to exercise the powers delegated to the

> Competent Authority when exigencies of the situation so warrant.
>
> When the authority higher than the Competent Authority acts accordingly, it shall be to the exclusion of the Competent Authority."

. The Term "Competent Authority" is defined in Regulation No.2(7) and it reads thus : -

> (7) **"Competent Authority"** means the Board or any other authority to which authority is delegated by the Board for the purpose of any of these Regulations."

28. A bare perusal of the above definitions would mean that both, appointing authority and

competent authority are the "Board" itself. However, there can be authorities other than Board to whom the powers/authority are delegated by the Board.

29. The general conditions of service are to be found in Chapter III. It is not in dispute that there are categories of employees as per Pay Groups from I to IV. In Chapter III Regulation 25 provides that competent authority may dismiss or remove from service an employee after following the procedure laid down by the Board in accordance with the provisions of Regulation 91(2)(f)(g). Chapter IV deals with pay and neither side has placed any reliance upon the same. Similar is the case with Chapter V, dealing with Leave. In Chapter VI there are regulations pertaining to travelling allowances.

30. Chapter VII is entitled "Conduct, Discipline and Appeal Regulation." Regulation 86

therein deals with classification of offences. Some argument is tried to be developed by Mr.Chitnis on the basis of this Regulation and, therefore, it is necessary to reproduce the same. It reads thus : -

"86. CLASSIFICATION OF OFFENCES.

(1) Offences are classified in two categories as shown below :

(a) Minor lapses, and

(b) Acts of misconduct.

(2) Minor lapses are those mentioned in Schedule ‘A’ (with any modification that may be effected by the Board) which may result in a punishment upto the limit prescribed in (1) of the

statement below Regulation 91.

(3) Acts of misconduct are those which have been listed in Schedule 'B' (with such modifications as may be specified by the Board from time to time) for which maximum penalty is as prescribed in (2) of the statement below Service Regulation 91 according to the gravity of the misconduct.

(4) Any minor lapse may be treated as an act of misconduct if repeated for a third time within the period of one year and may be dealt with accordingly.

. Regulation 91 provides for punishment for minor lapse and acts of misconduct.

31. It is no doubt true that minor lapses have minor punishment whereas the acts of misconduct, the punishments are from withholding of increment, removal of service to dismissal. This includes stoppage of promotion, suspension and reversion to a lower post. An appeal is also provided for. In cases of minor as well as major penalties, the appellate authorities are provided for in Regulation No.94. In Regulation 93, the competent authorities prescribed in Schedule "C" are held to be competent to hold departmental proceedings against an employee for any act of misconduct or to appoint any officer to hold such proceedings. It has also been empowered to impose punishment or otherwise give a decision. The other chapters and schedules to these Regulations are not necessary to be referred to. However, Third schedule which deals with appointing authorities specifically states that for appointment to post in Pay Grade II,

Competent Authority shall be Jt.Secy. (Technical) and Others. In this very schedule (Third Schedule), Item No.IV states that appointing authority prescribed in the Third Schedule are on their own also competent to order reversion of the employees in specified categories of posts stated therein. In other words, the appointing authority can act as competent authority in respect of employees whom they can appoint and order their reversion except where competent authorities to impose punishment by reversion to lower post are prescribed under Schedule "C" of these Service Regulations. The Eleventh schedule to the Regulation deals with competent authorities and Sr.No.44 refers to Regulation No.25 and very clearly states that for dismissal or removal from services after following prescribed procedure, the competent authority is the appointing authority as prescribed in Schedule (C). That Jt.Secy. (Technical)/Board is a post/ employee classified

as Pay Group I post/employee is not disputed and 20th Schedule would be a guide for that. Nineteenth Schedule lists the heads of Department. Twentyfirst Schedule lists the posts/ employees classified at Pay Group II and Junior Engineer is enlisted at Sr.No.28 therein.

32. In my view, any larger question need not be gone into, as a combined reading of the aforesaid Regulations, Items in the Schedule as also the Schedule itself would make it clear that the Jt.Secy. is a appointing authority for Pay Group II employees and once he can be a competent authority as well for imposing punishments in terms of the service regulations, then, the Jt.Secy. (Technical) who has given sanction in this case cannot be said to be incompetent to grant the same.

33. In this context reliance placed by the learned A.P.P. on the Service Regulations and

more particularly schedules appended thereto is appropriate. It is not disputed that the applicant was a junior engineer which post is classified as Pay Group II. The Jt.Secy. (Technical) is empowered to appoint and is designated as an appointing authority for posts in Pay Group II. Once such is the position, then, it is not necessary to enter into the controversy as to whether the Correction Slip No.82 which speaks of delegation of powers for grant of sanction is in force or if in force could be relied upon.

34. In my view, it is not as if the Jt.Secy.(Technical) was a person totally incompetent to grant sanction. He is not of the same status or inferior to the applicant accused in the hierarchy. Once it is a sanction granted by a person in a post which is superior in hierarchy, then, the order of sanction cannot be faulted.

35. Mr.Chitnis has not challenged the order of sanction on any other ground. Perusal of the order passed by the Court below would show that other grounds were urged but arguments made before me were confined only to competency of the Joint Secy. In my view for the reasons assigned by me hereinabove, it would not be proper to hold that the order of sanction is vitiated in any manner. Once such is the factual position and the appointing authority also being empowered to impose punishment for lapses and mis-conduct under the Service Regulations, then, in my view, challenge to the order of sanction must fail. In the result, revision fails. Rule is discharged.

(S.C.Dharmadhikari, J)